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ABSTRACT

This study examines the effect in Pennsylvania of the increasing use of consultants in public-sector collective bargaining on the bargaining process itself. Following a detailed review of research on both the positive and negative aspects of consultant use in collective bargaining, this paper describes the study's major hypotheses, its school district sample, and its methodology. The study's two major hypotheses are that: (1) a consultant used by a labor bargaining team will heighten contract settlement conflict; and (2) management's perception of a consultant's attitude, effectiveness, and conduct will affect the bargaining itself and the resulting bargaining agreement. Of the 502 school districts in Pennsylvania to which survey forms were distributed, 196 responded; an analysis of the data indicated that consultant use by the district's labor bargaining team generates more negative than positive results. The study concludes by calling for more research on why consultant use causes so many problems and for continued monitoring of the professional maturity level of the consultant activity. (JBM)

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A Study of the Relationship Between the Use of Labor Consultants and School District Collective Bargaining

by

S. Terry Lehr

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The Use Of Labor Consultants
And School District
Collective Bargaining

Introduction

> What a Great Man is he!...
> He can quell ev'ry Foe,
> Without striking a Blow,
> And can conquer as far as the Money will go!
> And when at last has exhausted your Store,
> On his Personal Credit he'll borrow you more
> Unknown[1]

To many people involved in the collective bargaining process, the thought of having a professional negotiator on their team congers visions much like the excerpt above. This vision may be especially true in the maturing arena of public sector collective bargaining in Pennsylvania. It is now fourteen years since public sector employees, including those in the public school districts, have been given legal authority to bargain with their employers and, to a limited degree, strike when those bargaining activities have reached impasse. Yet the state has experienced some horrendous teacher strikes and prolonged labor unrest that has affected not only the teachers but their students as well.

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[1]Frank A. Bush, Jr., "Professional Chief Negotiators: Consensus and Contradictions in Role Exceptions", Viewpoints (November 1976): 22.

In many districts both labor and management bargaining teams are turning to professional consultants to strengthen their position in the bargaining process. It was the increase of this practice that lead to the research on professional consultant use and its effect on the collective bargaining process. The initial intent of the study was to survey both school district superintendents and teacher union presidents to see if the addition of a consultant aided or hindered their quest for contract settlement. After initially agreeing to assist in the project, Pennsylvania's largest teacher union refused to supply the necessary names and addresses of their local presidents. This event forced a change in plans and necessitated reliance only on the information supplied by the school district superintendents.

Initial analysis of the data collected in the survey was directed towards the management bargaining team and the impact the consultant had on the negotiations. The results of that analysis are published in the Journal of Collective Negotiations in the Public Sector.[2] In anticipation of the study being directed to both labor and management, the management version of the data collection instrument contained three questions that allowed the superintendent to evaluate the performance of labor's consultant. After the initial study was completed a second analysis was performed on these questions to see if

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[2]Terry Lehr, William Caldwell and Dan Di Lucchio, "Consultant Effectiveness During Collective Bargaining Activity in Pennsylvania Schools," Journal of Collective Negotiations in The Public Sector 11 (Fall 1982): 259-266.

there was anything of value there. It was this second analysis that lead to this paper with what the author feels are interesting results.

Research

Those who discuss the use of consultants as part of the collective bargaining process tend to be either completely for or against the idea. Only a few writers attempt to weigh the two sides of the argument and then draw their conclusions.

Emmet and Howe discuss whether a consultant is necessary when entering collective bargaining. They suggest that for those who are new to this activity "... the best time to seek the services of a consultant is before the fact, preferably well before the fact."[3] Carol Gilmore suggests another situation that could be condusive to consultant usage.

> For the institution with a part-time or intermittant need for technical industrial relations assistance, the outside consultant route may be an excellent one to follow. For example, the small school with only a few bargaining units may choose to retain the services of a professional negotiator to seek legal assistance on an ad hoc basis.[4]

Gilmore also agrees with Emmet and Howe in using a consultant when one or both parties are new to collective bargaininging. The consultant can be helped as a legal and technical advisor to the bargaining team. Gilmore's arguments for the

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[3]Thomas A. Emmet and Ray A. Howe, "A Consultant on Bargaining?", AGB Reports 23 (September 1981): 36.

[4]Carol Gilmore, "Administration Training and Collective Bargaining," College and University Personnel Association Journal 31 (Summer 1980): 41.

consultant also point out the consultant's usefulness as a contract administrator.

> Consultants may also be useful for experienced administrators by serving as resource persons in specialized areas, such as pensions and insurance, or by gathering data on comparability and ability-to-pay.[5]

Jerome Cramer looks at a union consultant and points out some of the various roles he or she can play during bargaining. "Bates can serve as an advisor to the union, as part of the bargaining team, or as chief negotiator."[6]

Lehr, Caldwell and Di Lucchio also look at the possibility of using a consultant on a bargaining team and some ways they can help the team.

> The use of an outside consultant by a team, particularly, a team that is new to the bargaining process, could help the team avoid various pitfalls neophytes often make that could result in high levels of conflict prior to reaching settlement. It is also suggested that the consultant could be considered a model for those who will take over the negotiating responsibility when future contracts need to be settled.[7]

Emmet and Howe explore ways a consultant can be useful prior to the first bargaining session. They write that a consultant can help educate those involved so that any preconceived ideas are dispelled. The consultant can also advise about creating data systems that will be useful during bargaining. The formation of the bargaining team is another function of the

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[5]Gilmore, "Administration Training and Collective Bargaining": 42.

[6]Jerome Cramer, "Here's What to Expect When This Man Faces You at the Bargaining Table" 166 (July 1979): 34.

[7]Lehr, Caldwell and Di Lucchio, "Consultant Effectiveness During Collective Bargaining Activity in Pennsylvania Schools,": 260.

consultant. Getting the right people in the right positions is very important. A fourth function of the consultant may be an audit of board policies, practices and procedures. This may identify weak areas that could be addressed at the bargaining table. In addition the consultant can assist in identifying problems the faculty may take with them to the bargaining table.[8]

Gilmore lists the qualities a union bargaining team should look for when selecting a consultant.

> A consultant should be able to bring a pragmatic and open-minded approach to problem-solving, be more flexible in bringing a variety of techniques and approaches to bear on an issue, and be more practical in determining realistic, achievable outcomes.[9]

Emmet and Howe discuss the abilities of the consultant to help with decisions at different junctions which a bargaining team may not be able to make on its own.[10] Cramer's discussion of the union consultant points out the real task of the consultant. "Avoiding these situations, where unions and boards knock heads, really is Bates' major task, and securing a workable contract is his primary goal."[11]

A negative voice on the topic of consultant usage is

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[8]Emmet and Howe, "A Consultant on Bargaining?": 36-37.

[9]Gilmore, "Administration Training and Collective Bargaining,": 42.

[10]Emmet and Howe, "A Consultant on Bargaining?": 37.

[11]Cramer, "Here's What to Expect When This Man Faces You at the Bargaining Table,": 34.

Myron Leiberman. He states:

> Twelve years ago, when I first negotiated for school boards, my opinion was that the practice of employing outside negotiators would diminish. In fact, I expected that it would largely disappear as school district personnel became more experienced in the process. Paradoxially, in many districts, "experience" has had just the opposite effect: many districts have employed outsiders as a result of their experience in a "do it yourself" approach to bargaining.[12]

Lehr, Caldwell and Di Lucchio suggest that when one team employs a consultant the reaction of the other team will probably be negative. They write:

> When one side hires a consultant for whatever reason the other side will react strongly in a negative fashion. This reaction will be strong enough to prolong the negotiations from a peaceful settlement to one requiring third-party involvement. It will also heighten conflict from one of third-party involvement to strike, before settlement is realized. The data further suggest that strikes are longer when consultants are involved.[13]

Gilmore echoes this conclusion when he argues:

> If the union is going to use professionally trained, experienced negotiators, management must consider maintaining the power balance at the bargaining table and meeting expertise with expertise.[14]

Lehr, Caldwell and Di Lucchio summarize their work by stating:

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[12]Myron Lieberman, "The Role and Responsibilities of the Parties in School District Bargaining," Journal of Collective Negotiations in the Public Sector 10 (Summer 1981): 96.

[13]Lehr, Caldwell and Di Lucchio, "Consultant Effectiveness During Collective Bargaining Activity in Pennsylvania," 265.

[14]Gilmore, Administrating and Collective Bargaining,": 43.

> In summary, an employer must realize that hiring a consultant to assist in collective bargaining will not automatically resolve problems nor improve the labor relations climate, In fact, employers should be aware that by hiring a consultant the activity intensity and adversary nature of bargaining will increase. The data suggest that the use of a consultant should be weighed carefully.[15]

They conclude withthe simple statement, "Thus, consultants may foster more conflict than they solve."[16]

In addition to the argument that a consultant may generate a higher level of contract settlement conflict, Lieberman suggests that cost may be a negative factor. He argues:

> For example, boards have little usable data on the costs of bargaining. Whether districts use an outside negotiator or rely exclusively on regular full-time staff, they typically lack data on the direct and indirect costs of bargaining. Boards may know the direct costs for an outside negotiator, but they have little idea of the indirect costs, such as the extent of staff time devoted to bargaining. Negotiator A may charge $60 an hour and Negotiator B $75 an hour but B may require much less time than A.[17]

Another problem with a consultant is that his or her presence may bring more confusion or as Hunsaker, Hunsaker and Chace suggest the consultant will only add another set of needs that must be met before contract settlement can be reached. They go on to suggest that a consultant that is too aggressive may destroy the give and take that is part of collect-

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[15]Lehr, Caldwell and Di Lucchio, "Consultant Effectiveness During Collective Bargaining Activity in Pennsylvania." 265.

[16]Ibid.: 261.

[17]Lieberman, "The Role and Responsibilities of the Parties in School District Bargaining,": 101.

ive bargaining.[18] Lehr, Caldwell and Di Lucchio report that when a consultant was hired by management, "The study data clearly show that the hiring of a consultant is significantly related to an increase in the number of bargaining sessions a school district will need to reach settlement."[19] These authors go on to conclude their study by saying:

> On the other hand, if the relationship of the variables is such that high conflict and the intensity of the labor climate has a causal effect on the hiring of a consultant, the following comments are appropriate. The continued deterioration of labor relations will eventually cause management to hire professional expertise in the form of a consultant to achieve objectives that the employer now considers difficult or near impossible to attain. This places consultants in an an extremely difficult position. It most likely also condemns them to be involved in high settlement conflict and extended bargaining regardless of their abilities.[20]

Lieberman reacts strongly against those labor consultants who he feels are most qualified to develop a solution to the problem of using consultants during bargaining. He writes, "Realistically, part of the problem is that those who are the most knowledgeable about legislative deficiencies have the largest economic stake in their perpetuation."[21] He continues

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[18]Johanna S. Hunsaker, Philip L. Hunsaker and Nancy Chace, "Guidelines for Productive Negotiating Relationships," Personnel Administration (March 1981): 38.

[19]Lehr, Caldwell and Di Lucchio, "Consultant Effectiveness During Collective Bargaining Activity in Pennsylvania Schools,": 265.

[20]Ibid.: 265.

[21]Lieberman, "The Role and Responsibilities of the Parties in School District Bargaining,": 98.

his decision by stating:

> One problem is that the negotiators, who are most familiar with the process and therefore the most knowledgable about its waste and inefficiency-may and have an economic stake, not simply in the process but sometimes in its inefficiencies as well.[22]

If a labor team decides it needs a consultant, there are some things they should consider before agreeing to include a certain individual on their team. The presence of these qualities can possibily overcome the negative conditions that seem to arrive with the consultant. Perhaps the most important quality is that of respect to trust. "Respect, which includes confidence and trust, must come from both sides of the table for a consultant to be effective in his/her role during the bargaining process."[23] Part of that trust comes from honesty with those who employ the consultant. Emmet and Howe write, "Consultants should not aim to tell clients what the clients want to hear, but what they need to hear."[24]

A second quality that should be considered is patience.

> Patience is also a significant quality to consider when selecting a consultant. Patience with the progress of the bargaining, with the other team, and even with his/her own team when things become complicated or tedious. A consultant who is short on patience will only hinder the bargaining process and raise the level of settlement conflict that is experienced.[25]

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[22]Lieberman, "The Role and Responsibilities of the Parties in School District Bargaining": 101.

[23]Lehr, Caldwell and Di Lucchio, "Consultant Effectiveness During Collective Bargaining Activity in Pennsylvania Schools": 263-264.

[24]Emmet and Howe, "A Consultant on Bargaining?": 38.

[25]Lehr, Caldwell and Di Lucchio, "Consultant Effectiveness During Collective Bargaining Activity in Pennsylvania Schools": 264.

A third quality that is necessary is flexibility.

> Flexibility also appears to be a very desirable ability to look for when seeking a consultant. A person able to adjust to changing events and able to switch to plan B when plan A appears to be failing will be more effective and generate better results from the bargaining process. A consultant who is flexible will have several plans or strategies at his/her fingertips and should be able to use these with the prospective employer or the employee unit when appropriate.[26]

Emmet and Howe suggest, "The function of a consultant is not to reduce or eliminate options but to expand them."[27] Hunsaker, Hunsaker and Chace write, "The negotiator should always enter a negotiation with an open mind. Preconceived ideas tend to block the creativity essential in negotiating."[28]

A fourth important quality is familiarity with the local district.

> Familiarity with the local district is also vitally important to a successful consultant. A person who is not acquainted with present, as well as past, conditions and events of the school district he/she is advising will not be able to provide the best possible counsel or to conduct negotiations in the most prudent manner. School districts searching for consultant advise should keep this point high on their list of desired qualities for their consultant and avoid the "blackbagger" who attempts to treat all bargaining problems in the same manner no matter what the local history may dictate.[29]

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[26] Ibid.: 264.

[27] Emmet and Howe, "A Consultant on Bargaining?": 38.

[28] Hunsaker, Hunsaker and Chace, "Guidelines for Productive Negotiating Relationships": 38.

[29] Lehr, Caldwell and Di Lucchio, "Consultant Effectiveness During Collective Bargaining Activity in Pennsylvania Schools": 264.

Hunsaker, Hunsaker and Chace also emphasize this when they say:

> Finally, the negotiator should be prepared. This factor includes much more than gathering factual information and understanding rules and regulations. It means investigating the other party's needs, styles and incentives.[30]

Other qualities that should be mentioned that are discussed in the literature are: ability to read others, good salesperson,[31] emotionally detatched and cooperative.[32]

This is a quick look at what others have to say about consultants themselves and the possible results of their use. The qualities a successful consultant should possess are also listed and discussed.

Statement of the Hypotheses

Based on the literature and empirical study, this study tests several major hypotheses. The first hypothesis is that the inclusion of a consultant on the labor bargaining team will heighten the level of contract settlement conflict. The second hypothesis is that the consultant's attitude, effectiveness and conduct as perceived by management will have an effect on the bargaining itself and the bargaining agreement that results. Minor points with this second hypothesis are that the number of bargaining sessions needed to reach settle-

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[30]Hunsaker, Hunsaker and Chace. "Guidelines for Productive Negotiating Relationships": 39-40.

[31]Lehr, Caldwell and Di Lucchio, "Consultant Effectiveness During Collective Bargaining Activity in Pennsylvania Schools": 264.

[32]Hunsaker, Hunsaker and Chace, "Guidelines for Productive Negotiating Relationships": 39.

ment and management satisfaction with the agreement would be positively related to management's reaction to the labor team's consultant.

Sample

Five hundred two school districts in the Commonwealth of Pennsylvania were included in the survey. Four hundred thirty-eight of the districts completed and returned the data collection instrument. One hundred ninty-six of the responing districts indicated that the labor bargaining team had used a consultant in some compacity during bargaining. This represents a sample of eighty-seven percent of the districts in the state with 44.7 percent being included in the consultant effectiveness part of the analyses.

Methodology

The data collection instruments used in this survey were sent to the superintendent in each school district. Recipients of the survey were instructed how to complete the form and when to return it. Each form was edited for completeness and coded for keypunch. After all forms were edited, the data was keypunched and entered into an IBM 370 computer. Data was then analyzed using the Statistical Package for the Social Studies (SPSS).[33] Analyses were conducted to determine the effect of the consultant on the level of contract settlement conflict and the evaluations of the consultants by the super-

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[33]Norman H. Nie et al. Statistical Package for the Social Studies, 2nd ed. (New York: McGraw-Hill, 1975).

intendents to see if their impressions had an effect on the bargaining process.

Findings of the Study

Analyses of the data revealed significant findings concerning consultant use by the labor bargaining team and contract settlement conflict. Districts that had consultants on their labor bargaining teams had a significantly (.001) higher level of contract settlement conflict than districts whose labor bargaining team consisted only of members of the bargaining unit. In addition, management's impression of the consultant was also significantly (.001) tied to the level of settlement conflict. As the level of conflict rose, the evaluation of labor's consultant fell.

In analyzing management's impression of the consultant on the labor bargaining team a number of significant findings were realized. Using the number of bargaining sessions needed to reach contract settlement as a measure of the consultant's impact on the bargaining process, there is a significant relationship between the consultant's attitude and the number of sessions needed to reach settlement. This is also true when the consultant's conduct and effectiveness are analysed. In all three instances significance was reached at the .01 level. If all three variables (attitude, effectiveness and conduct) are combined and compared to the number of bargaining sessions, significance is reached at the .006 level.

Analyzing management's evaluation of the bargaining contract and consultant performance also brought several significant results. Management's satisfaction with the bargaining agreement was significantly affected by their impression of the consultant's attitude. Analysis showed this to be true at the .001 level. Contract satisfaction and consultant conduct was also significant at the .02 level. However contract satisfaction and consultant effectiveness was not significant at the .05 level. Using the combined evaluations and contract satisfaction the level of significance reached was .001.

Conclusions

This investigation indicates that use of a consultant on the labor bargaining team generates more negative than positive results. Consultant use causes a higher level of settlement conflict and significantly more strikes. This means that by using a consultant a bargaining experience that may have ended peacefully could go to some form of third party intervention. It could also mean that any potentially third party level of conflict could go on to strike. One may also conclude that the incidence of strike is higher than those instances where a consultant was not used. These results are similiar to the results that occurred when consultant use by the management team was studied. Based on these findings, it seems best to have those doing the actual bargaining be members of the local bargaining unit and the local management staff.

These results need to be tempered by a careful look at

any causal relationships that may also be reflected but not considered by the study. If there has been little or no history of bargaining conflict or no cause for that level of conflict to intensify, labor must recognize that the pressure of a consultant at the table will raise that level of conflict significantly. On the other hand, if there has been continued high levels of settlement conflict in the past the addition of a consultant may just make a bad situation worse. Labor teams should be aware of this when considering who to include at the bargaining table. One must also recognize that in some cases the conditions are so deteriorated that no matter what is done there will be high levels of contract settlement conflict.

Consultants who work with labor bargaining teams must also realize that the impression they make at the table will definately have an effect on the bargaining process. When a consultant realizes that just being there is a negative influence on the bargaining process, he or she must then incorporate behavior that overcomes the negative and generates a positive situation. Consultants should be able to display an attitude that is pleasant even when the two sides are in disagreement. The old saying that you catch more flies with honey than vinager is very true. A consultant who displays an attitude that irritates the other team will have a much more difficult time winning the consessions he or she desires.

A consultant's conduct is also vitally important. An example of poor conduct was evidenced by a consultant who,

upon receiving a packet of information from the management team, threw the papers all over the floor with great distain. This did not further the cause of the labor group that he was representing. The management team became very rigid and labor did not gain many of the things it was hoping for during the negotiations. It would seem reasonable to assune that the type of conduct tnat makes one acceptable to others outside the bargaining setting would also work in the bargaining setting as well.

The third point that a consultant should display is his or her effectiveness. A consultant must do his or her homework. He or she must be thoroughly prepared before they sit down at the table and face the other side. In far too many cases the consultant takes more clients than can be handled properly. The consultant who operates under the cloud of "if its Tuseday this must be..." is worthless and should be dismissed at once. Consultants must not only know what the client wants in the bargaining agreement, but why they want it. In this way a consultant can effectively present his or her side of the argument and show management why an item should be added or deleted from the agreement. An effective consultant may be able to defuse a volatile situation with logic and information, if those resources are already part of his or her knowledge.

The addition of a consultant to a labor bargaining team does not bring automatic resolution of collective bargaining

problems. As has been demonstrated, it only heightens them. However, changes in the methods used by consultants could have the positive effect desired by those who employ them.

As the "Johnny-come-lately" to the collective bargaining arena, the public sector used the private sector as its model in developing collective bargaining procedures. Since the use of consultants by both labor and management seemed to work in the private sector the practice has been embraced by the public sector as well. In Pennsylvania this method of bargaining between school districts and their teachers does not appear to be as successful as in other areas. At this point in time one can only speculate as to why this phenomenon exists. Much more research needs to be conducted to try and determine the cause of this problem. Is the resulting trouble the fault of the consultant regardless which side of the table they sit on? Or is it simply a case of someone stepping in a situation that was impossible from the beginning. It appears that more ethnographic type of studies need to be attempted to try to get a more complete picture of why there seems to be so many problems with consultant usage.

A second area of research should be a continued monitering of consultant activity to determine whether or not they have matured to the point of doing their job in a professional manner.

Continued research on collective bargaining may help bargaining teams to reach their goal of contract settlement with little or no conflict. This will have a very positive effect on not only the school district staff, but its students as well.

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